

**Letter of Findings: 01-20191026
Individual Income Tax
For the Tax Year 2016**

NOTICE: IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Department's official position concerning a specific set of facts and issues. This document is effective as of its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Letter of Findings.

HOLDING

Husband and Wife failed to demonstrate that they did not have additional unreported Indiana taxable income, therefore failing to prove that the Department's proposed assessment of additional Indiana individual income tax was incorrect for the tax year at issue.

ISSUE

I. Individual Income Tax - Additional Income.

Authority: IC § 6-8.1-5-1; IC § 6-3-2-2; IC § 6-3-2-1; IC § 6-3-1-3.5; *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64 (Ind. 2009); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2012).

Taxpayers protest the imposition of Indiana individual income tax for tax year 2016.

STATEMENT OF FACTS

Husband and Wife ("Taxpayers") filed their 2016 Indiana income tax return timely. In June 2019, based on information from the Internal Revenue Service ("IRS") showing that more taxable income had been reported to the IRS than had been reported to the Indiana Department of Revenue ("Department"), the Department adjusted Taxpayers' 2016 return which resulted in additional base tax due. The Department issued Taxpayers a proposed assessment for the increase, plus penalty and interest.

Taxpayers protested the assessment and waived their right to a hearing. Thus, this Letter of Findings is based on the information available to the Department and provided in Taxpayers' protest file. Additional facts will be provided as necessary.

I. Individual Income Tax - Additional Income.

DISCUSSION

Based upon information received from the IRS, the Department adjusted Taxpayers' 2016 Indiana income tax return, resulting in an increase to Taxpayers' tax liability. The Department assessed Taxpayers for the increase, plus penalty and interest. Thus the issue is whether Taxpayers adequately demonstrated that the adjustment to their 2016 Indiana income tax return, and the resulting assessment of additional tax due, was incorrect.

As a threshold issue, all tax assessments are *prima facie* evidence that the Department's claim for unpaid tax is valid; the taxpayer bears the burden of proving that any assessment is incorrect. IC § 6-8.1-5-1(c); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2011); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007). "[E]ach assessment and each tax year stands alone." *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64, 69 (Ind. 2009). Consequently, the taxpayer is required to provide documentation explaining and supporting its challenge that the Department's position is wrong for each tax year at issue. Poorly developed and non-cogent arguments are subject to waiver. *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, 486 n.9 (Ind. Tax Ct. 2011).

Indiana imposes an adjusted gross income tax on all residents. IC § 6-3-2-1(a). A taxpayer's Indiana income is determined by starting with the federal adjusted gross income and making certain adjustments. IC § 6-3-1-3.5(a). IC § 6-3-2-2(a) specifically outlines what is income derived from Indiana sources and subject to Indiana income tax. For Indiana income tax purposes, the presumption is that taxpayers properly and correctly file their federal income tax returns as required pursuant to the Internal Revenue Code. Thus, to efficiently and effectively compute what is considered the taxpayer's Indiana income tax, the Indiana statute refers to the Internal Revenue Code. IC § 6-3-1-3.5(a) provides the starting point to determine the taxpayer's taxable income and to calculate what would be their Indiana income tax after applying certain additions and subtractions to that starting point.

The Department determined that Taxpayers did not include a 1099R distribution on Taxpayers' 2016 Indiana income tax return. The Department adjusted Taxpayers' return which resulted in an additional tax due. Taxpayer protested saying that the adjusted income does not reflect their federal return, Indiana return, or their Social Security earnings report.

Taxpayers have not accounted for the 1099R distribution in either their federal or state income tax. As stated above, it is Taxpayer's burden to prove that the Department's assessment is incorrect. In doing so, Taxpayers are required to provide documentation to support their position. Taxpayers have not presented any evidence demonstrating that they did not have a 1099R distribution or that they did not need to include it on their return. Thus, Taxpayers have failed to meet their burden under IC § 6-8.1-5-1(c). Taxpayers' protest is therefore denied.

FINDING

Taxpayers' protest is respectfully denied.

August 30, 2019

Posted: 10/30/2019 by Legislative Services Agency
An [html](#) version of this document.